

July 31, 2020

KAREN MITCHELL
CLERK, U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA

v.

CYNTHIA MACIAS-MARTINEZ

NO. 3:20-cr-00353-L

FACTUAL RESUME

In support of Cynthia Macias-Martinez's plea of guilty to the offense in Count One of the Information, the defendant, Cynthia Macias-Martinez, the defendant's attorney, David Scoggins, and the United States of America (the government) stipulate and agree to the following:

ELEMENTS OF THE OFFENSE

To prove the offense alleged in Count One of the Information, charging a violation of 16 U.S.C. §§ 3372(a)(1) and 3373(d)(1)(B), that is, sale of wildlife taken in violation of federal law, the government must prove each of the following elements beyond a reasonable doubt:¹

- First.* That the defendant knew that the wildlife had been taken, possessed or sold in violation of, or in a manner unlawful under United States law or United States regulations;
- Second.* That the market value of the wildlife actually taken, possessed, or sold exceeded \$350; and

¹ Ninth Circuit Pattern Jury Instruction 9.12 (9th Cir. 2010 ed).

Third. That the defendant sold, received, acquired, or purchased wildlife by knowingly engaging in conduct that involved its sale, acquisition, the intent to sell it, or purchase it.

STIPULATED FACTS

1. From on or about June 7, 2017, through on or about April 26, 2019, in the Dallas Division of the Northern District of Texas and elsewhere, the defendant, Cynthia Macias-Martinez, did knowingly engage in conduct that involved the sale of wildlife, with a market value in excess of \$350.00, that is: five (5) Ruby-throated Hummingbirds (*Archilochus colubris*); two (2) Black-chinned Hummingbirds (*Archilochus alexandri*); eighteen (18) Hummingbirds, either Ruby-throated or Black-chinned (*Archilochus*); fifteen (15) Violet-crowned Hummingbirds (*Amazilia violiceps*); two (2) Plain-capped starthroat Hummingbirds (*Heliodoxa constantii*); and one (1) Berylline Hummingbird (*Amazilia beryllina*), and did knowingly transport, sell, receive, and acquire said wildlife knowing that said wildlife were possessed, transported and sold in violation of and in a manner unlawful under the laws and regulations of the United States, specifically, 16 U.S.C. §§ 703 and 707(b), and Title 50 C.F.R. Part 10 of the Migratory Bird Treaty Act.

2. The defendant at all times knew that it was illegal to possess, import, acquire, sell, and offer for sale dried hummingbird carcasses known as “chuparosas.” Chuparosas are believed by some to have mystical benefits, and are commonly used as amulets or charms. The defendant sold chuparosas at her store, “Botanica del Pueblo,” which was located in Dallas, Texas.

3. The defendant knew that the hummingbird carcasses that she acquired to sell at her store came primarily from Mexico, and that they had been illegally imported and smuggled into the United States.

4. The defendant admits that she knowingly and illegally possessed and sold approximately five hummingbird carcasses, each of which was a protected species under federal laws and the Migratory Bird Treaty Act, on or about June 14, 2017. Defendant admits that, at the time of the June 14, 2017, sale, she had over 50 hummingbird carcasses in her store, which collectively had a value over \$350.

5. The defendant further admits that she knowingly and illegally possessed and sold approximately 30 hummingbird carcasses, each of which was a protected species under federal laws and the Migratory Bird Treaty Act, for \$1,350 on or about October 27, 2017.

6. The defendant further admits that she knowingly and illegally possessed, and offered to sell approximately 41 hummingbird carcasses, each of which was a protected species under federal laws and the Migratory Bird Treaty Act, on or about April 26, 2019. The value of these hummingbird carcasses was also over \$350.

7. The defendant agrees that the defendant committed all the essential elements of the offense(s). This factual resume is not intended to be a complete accounting of all the facts and events related to the offense charged in this case. The limited purpose of this statement of facts is to demonstrate that a factual basis exists to

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support the defendant's guilty plea to Count One of the Information.

AGREED TO AND STIPULATED on this 30th day of July, 2020

ERIN NEALY COX
UNITED STATES ATTORNEY



CYNTHIA MACIAS-MARTINEZ
Defendant



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